IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SECOND DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 21297 of 2004

Between:

Smt. Zulekha Umar, W/o. Adam,
R/o. H.No. 1-2-128/M, Beside Old Bus Depot, Railway Chowk,

Mahabubnagar - 1.

..... PETITIONER

AND

1 The Mahabubnagar Municipality, Mahabubnagar, Rep by its Commissioner.
2 The AP State Wakf Board, Haj House Buildings, Razzack Manzil,

Nampally, Hyderabad, rep. by its Chief Executive Officer
3 The Secretary, Managing Committee, Wakf Complex, Mahabubnagar.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of Mandamus, declaring the pre-warrant notice dated 12-10-2004 in No. 000725 of the 1st respondent as being illegal, arbitrary and violative of principles of natural justice besides violative of Articles 14, 19, 21 and 300-A of the Constitution of India and consequently set aside the same, by declaring that the petitioner is not liable to pay the property tax on the leased out premises to her to the 1st respondent.

Counsel for the Petitioner:MR.M.A.ASHFAQ MOHIUDDIN

Counsel for the Respondent No.1: MR.R.TIMMA REDDY

-Standing Counsel for Municipality

Counsel for the Respondents 2 & 3:MR.A.M.QURESHI
-Standing Counsel for A.P.Wakf Board.

The Court made the following O R D E R:

(Per the Hon'ble Sri Justice B.Sudershan Reddy)

Heard the learned Counsel for the petitioner and the learned Standing Counsel for the respondents.

We find no merit in this writ petition requiring our interference. The petitioner is the tenant of the premises in question, in respect of which, the property tax has been levied by the Municipality of Mahabubnagar. The impugned proceedings dated 12-10-2004 is a pre-warrant notice directing the petitioner to pay the entire due amount on the pain of initiating coercive measures, such as seizure of movable and immovable properties belonging to the petitioner.

The contention of the petitioner is that she is not the owner of the premises and therefore, the property tax is not liable to be paid by her. The contention, in our considered opinion, is totally misconceived. That under the provisions of the Andhra Pradesh Municipalities Act, 1965, the Municipality is entitled to proceed against the owner as well as the person in possession for realization of the property tax payable in respect of the premises. The submission of the learned counsel for the petitioner that there is no clause in the lease deed entered into by and between the petitioner and the Wakf Board, which is the owner of the property as to the payment of the property tax by the petitioner, is of no consequence. The Municipality is entitled to proceed against the petitioner and collect the property tax. It shall always be open to the petitioner to pay the property tax and claim the same from the owner of the property, viz., the Wakf Board.

That there is no such arrangement between the petitioner and the Wakf Board is not a ground to quash the impugned proceedings issued by the Municipality for realization of the property tax. We find no merit in the writ petition.

However, having regard to the facts and circumstances of the case, we direct the Municipality not to take any coercive steps against the petitioner pursuant to the impugned notice of warrant, for a period of six weeks, enabling the petitioner to pay the amount.

The writ petition is accordingly dismissed. No order as to costs.

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(B. Sudershan Reddy,J)

Date:22nd November, 2004.

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(T.Ch.Surya Rao, J)

Note:Issue C.C by 24-11-2004

b/o

vrn/ks

To

1 The Commissioner, Mahabubnagar Municipality, Mahabubnagar,

2 The Chief Executive Officer AP State Wakf Board, Haj House Buildings,

Razzack Manzil, Nampally, Hyderabad,

3 The Secretary, Managing Committee, Wakf Complex, Mahabubnagar.

4 Two C.D.Copies.